

REQUEST FOR COUNCIL ACTION

MEETING
1-05-04

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AGENDA SECTION: PUBLIC HEARING	ORIGINATING DEPT: PLANNING	ITEM NO. E-13
ITEM DESCRIPTION: Restricted Development Preliminary Plan #03-57 by Clint and Shelly Tagtow. The applicant is requesting approval to convert the garage on the property into 2 living units for rental. The property is located along the east side of Marion Road and south of 16 th Street SE and has an address is 1600 Marion Road SE.		PREPARED BY: Brent Svenby, Planner

December 23, 2002

Planning Commission Recommendation:

The Rochester Planning and Zoning Commission considered this application at a public hearing on December 10, 2003.

The Planning Commission reviewed this request according to the applicable criteria and standards in the LDM. The Commission is recommending denial to convert an accessory building into two more living units. The Commission found that this request is not consistent with those criteria and adopted the findings to the criteria as written in the staff report.

Ms. Rivas moved to recommend denial of Type III, Phase II Restricted Development Preliminary Plan #03-57 by Clint and Shelly Tagtow based on staff-recommended findings. Mr. Quinn seconded the motion. The motion carried 6-3 with Ms. Petersson, Mr. Ohly and Mr. Staver voting nay.

Council Action Needed:

1. *If the Council wishes to proceed, it should instruct the City Attorney to prepare a resolution either approving, approving with conditions, or denying this request based upon the criteria included in the staff report.*

Attachment:

1. Staff Report dated December 1, 2003
2. Minutes from December 10, 2003 CPZC meeting

Distribution:

1. City Clerk
2. City Attorney
3. Planning Department File
4. Applicant: This item will be considered sometime after 7:00 p.m. on Monday, January 5, 2004, in the Council/Board Chambers at the Government Center, 151 4th Street SE.

COUNCIL ACTION: Motion by: _____ Second by: _____ to: _____

Council

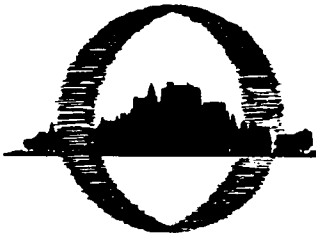
SK

Plan.

220
Langseth, Valori**From:** AVERYTAG@aol.com**Sent:** Sunday, December 28, 2003 7:15 AM**To:** City Hall**Subject:** (no subject)

We are asking for the support of the council members at the up coming meeting in regards to the Homestead Motel at 1600 Marion RD. southeast. We applied for a restricted development from planning and zoning as we was told from them it would be the way to approach this. We are requesting to remodel the existing garage to two sleeping rooms and a small laundry for our guests. Planning and zoning recommended to deny it because it would raise the density of the property too much, which I do not understand because a few years ago there was a restaurant operating from there. We have hired Kim Portz firm to do the blue prints and they say there is no problem. Please take the time to look into the minutes of the Planning and Zoning commission meeting as we already have several dollars invested and we feel there is a definite need for this addition. Thank you for the opportunity. Avery Tagtow

12/29/2003



ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

COUNTY OF

Olmsted

www.olmstedcounty.com/planning



DATE: December 8, 2003

TO: Rochester Planning & Zoning Commission

FROM: Mitzi A. Baker, Senior Planner

RE: Restricted Development CUP #03-57 by Clint & Shelly Tagtow

This Restricted Development application was reviewed as a request to convert an accessory building into two more living units as a multi-family use. Staff was contacted by the applicant on Monday December 8, 2003 and informed the property is a motel use, not multi-family. Despite this detail, staff recommendation remains a recommendation to deny the application.

The Rochester Zoning Ordinance and Land Development Manual (LDM) defines a motel as a "Transient Accommodation". Transient accommodations are not a permitted use in the R-1 district. Multi-family dwellings and Transient accommodations are both non-conforming uses in the R-1 District.

Furthermore, the LDM does include provisions for modifying non-conforming uses, through a Type III, Phase III hearing process (S. 65.320). This Section provides limitations to the types of modifications permitted, and does not permit an increase in intensity of the use. Specifically the number of residential units or floor area devoted to the public cannot be increased.



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14 ST SE

14 ST SE

15 ST SE

CUP #03-57

Tagtow

900' Notification Distance

Ward 4 Stobaugh

11/18/03

16 ST SE

17 ST SE

17 ST SE

20 AVE SE

20 AVE SE

OAK CIR W
OAK CIR W

ACORN RD
ACORN RD

OAK CIRE
OAK CIRE

OAK GROVE
OAK GROVE CT

CT

OAKLEAF

OAKLEAF LN

LN SE

OAK TERRACE
OAK TERRACE DR SE

DR SE

OAKDALE
OAKDALE RD DE

RD SE

OAKPARK
OAK PARK LN

OAK PARK LN

LN SE

PARK LN SE
PARK LN SE

23 AVE SE

HIGHVIEW DR

HIGHVIEW DR

OAKVIEW DR

OAKVIEW DR

HIGHVIEW DR

HIGHVIEW DR

OVERLOOK DR

OVERLOOK DR

SITE DATA :

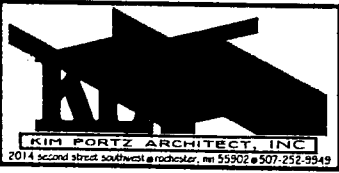
TOTAL AREA 21,400 S.F. = 0.49 ACRES
 BUILDING FOOTPRINT 8,340 S.F.
 ARCHITECTURE/PAVING 11,061 S.F.
 BUILDING AREA 54.00 %
 ARCHITECTURE/PAVING AREA 51.00 %
 OPEN AREA 5.00 %

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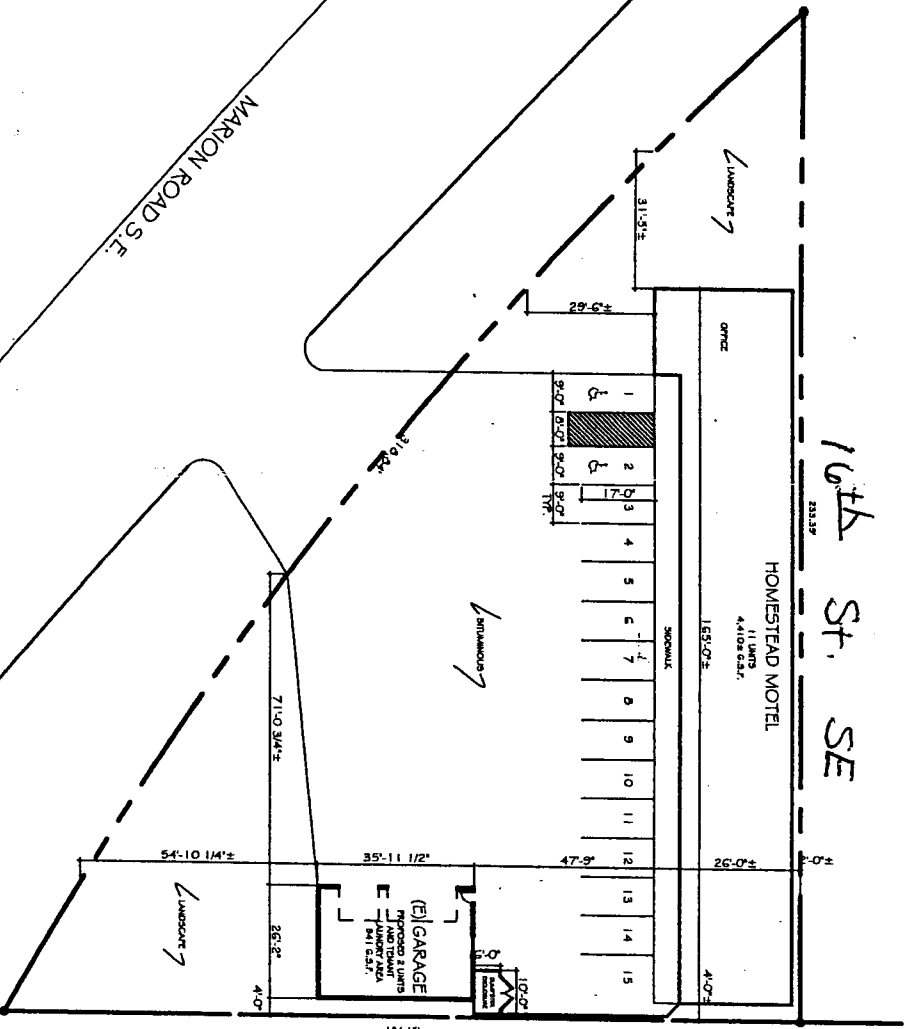
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of Minnesota.
 Print Name: _____
 Signature: _____
 Date: 09/25/03 Reg No.: 16570

DRAWN BY: C. TINSLEY
 PROJECT NO. 0347
 DATE: 10/21/03
 REVISION DATE:

design for:
 HOMESTEAD MOTEL
 1600 MARION ROAD S.E.
 ROCHESTER, MINNESOTA 55904



RECEIVED
 OCT 22 2003
 ROCHESTER OLIMSTED
 PLANNING DEPARTMENT



ARCHITECTURAL SITE PLAN

1 OF 1
 A1

32A

BUILDING CODE DATA:

CODES IN EFFECT

Minnesota Building Code 2002
International Building Code 2000
International Fire Code 2000
International Mechanical Code 2000
International Plumbing Code 2000
National Electric Code 1999

BUILDING TYPE

TYPE V-B

AUTHORITY JURISDICTION

City of Rochester Building Department
City of Rochester Fire Department

ZONING INFORMATION: (CITY OF ROCHESTER ORDINANCES)

- I. GENERAL INFORMATION
A. ZONING DISTRICT: R-1
B. RESTRICTED DEVELOPMENT: TYPE III DEVELOPMENT
- II. APPEARANCE CONTROL STANDARDS (GROUP RESIDENTIAL CARE)
A. HOURS OF OPERATION: -
B. EXTERIOR LIGHTING: R
C. SIGN REGULATIONS: R
D. LANDSCAPE MATERIAL POINT BASE: 12
E. EXTERIOR STORAGE REGULATIONS: T
F. SITE LOCATION REQUIREMENT: H
G. BUFFERYARD INDICATOR: I
- III. REQUIRED OFF-STREET PARKING
A. 1 PER SLEEPING UNIT (TRANSIENT ACCOMMODATIONS)

NOTES:

APPROXIMATE: SEE SITE PLANS
BUILDING LOCATION WITH RESPECT TO
PROPERTY LINES:
North - 37'-4" from property line
East - 11'-4" from property line
South - 7'-2" from property line
West - 26'-3" from property line

CODE INFORMATION: HOMESTEAD MOTEL EXPANSION

- I. BUILDING CLASSIFICATION (TABLE 3-A)
A. MOTEL: R-1
- II. OCCUPANCY SEPARATION (TABLE 3-B)
A. NOT APPLICABLE
- III. CONSTRUCTION TYPE
A. BUILDING GENERAL TYPE: V-B
- IV. ALLOWABLE FLOOR AREA (TABLE 503)
A. TABULAR FLOOR AREA
1. GROUP R-1: V-B 7,000 S.F.

NOTES:

ALL FIRE EXTINGUISHERS TO BE:
3A40BC SLD, CERTIFIED AND PLACED
EVERY 50-LINEAL FEET.

INTERIOR WALL AND CEILING FINISHES
MORE THAN 1/2" IN THICKNESS
SHALL HAVE A MAX. FLAME SPREAD
INDEX OF 75-200 (CLASS I II)

FIRE SPRINKLERS THROUGHOUT BUILDING
AND INDEPENDENTLY CONTROLLED FOR
EACH TENANT SPACE

B. ALLOWABLE AREA INCREASES (SECTION 506)

$$A_3 = A_t + \left[\frac{A_t I_1}{100} \right] + \left[\frac{A_t I_2}{100} \right]$$

$$I_1 = 100 \left[\frac{F}{P} - 0.25 \right] \frac{W}{30}$$

A_3 = Allowable area per floor (square feet)

A_t = Tabular area per floor in accordance with Table 503 (square feet)

I_1 = Area increase due to frontage as calculated in accordance with Section 506.2

I_2 = Area increase due to sprinkler protection (percent) as calculated in accordance with Section 506.3

A_t = 7,000 S.F.

F = 65'-3 1/2"

P = Building perimeter which fronts on an open space 20' wide min.

I_1 = 36.6

P = 124'-3"

P = Perimeter of entire building

I_2 = NA

W = 23'-10 1/2"

W = Minimum width of open space

TOTAL ALLOWABLE AREA: 9,562 S.F.

- V. ACTUAL FLOOR AREA
A. EXISTING GARAGE: 941 G.S.F.

- VII. OCCUPANT LOAD (ESTIMATED): 4.7 OCCUPANTS
(GUESTROOM AREAS: 200 GSF / OCC)
(LAUNDRY AREAS: ACCESSORY)

TOTAL = 4.7 OCCUPANTS

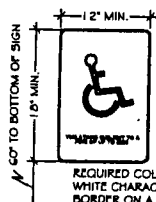
- VI. ALLOWABLE HEIGHT
A. ALLOWABLE HEIGHT (TABLE 503): 2 STORIES
B. ACTUAL HEIGHT: 1 STORY

- VIII. PLUMBING FIXTURES
A. FIXTURES REQUIRED (REF. CHAPTER 29, INTERNATIONAL PLUMBING CODE, & MINNESOTA BUILDING CODE)
ONE OF EACH FIXTURE PER GUESTROOM

- IX. PARKING REQUIRED:
A. HANDICAPPED (SEE ARCHITECTURAL SITE PLAN)
B. PARKING REQUIRED: SEE ZONING INFO.
PROVIDED: SEE ZONING INFO.

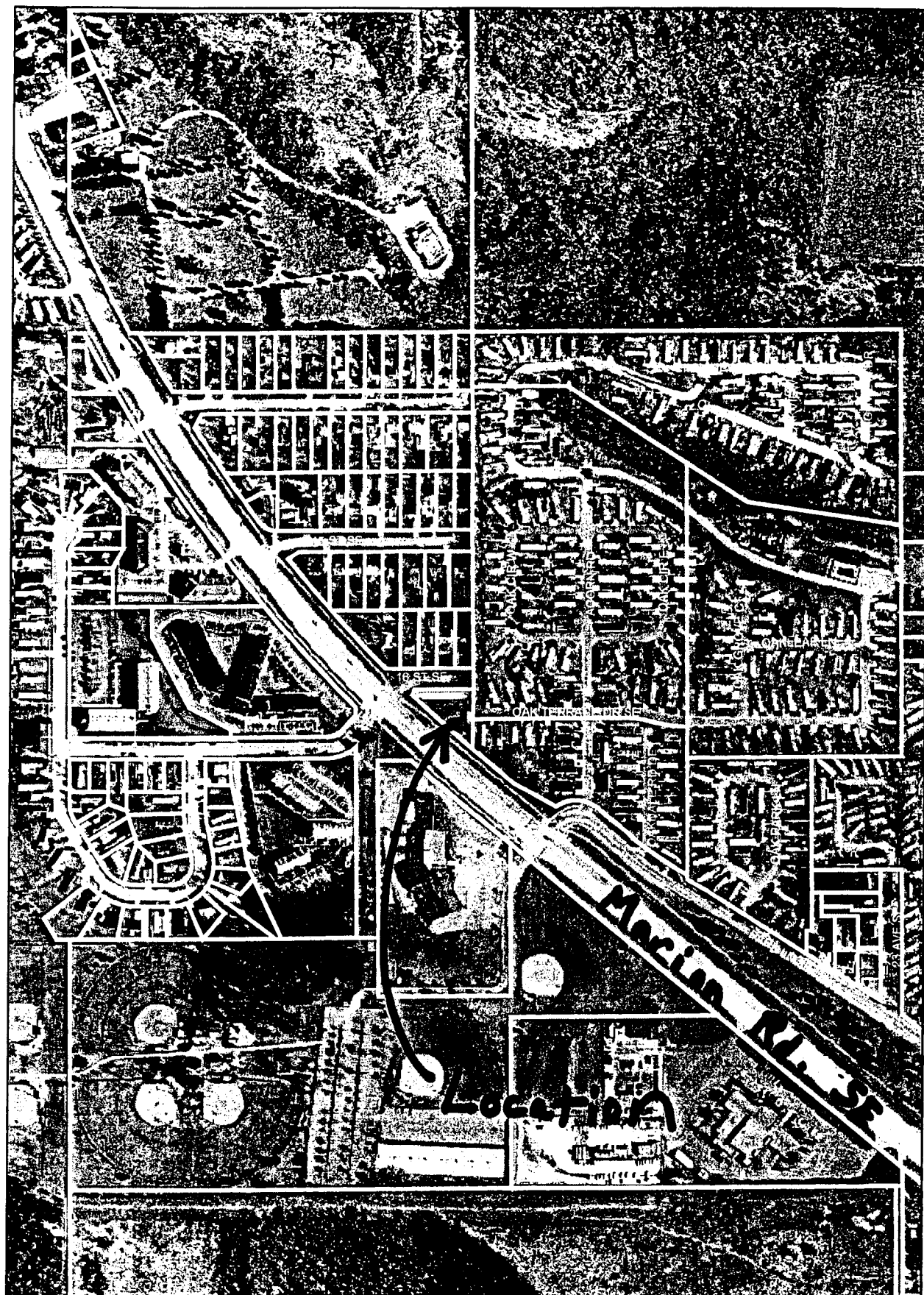
MIXED USE DEVELOPMENT GUIDELINES, R-1 DISTRICT

MAXIMUM FLOOR AREA RATIO: 8%	MINIMUM PERCENTAGE LANDSCAPE AREA: 50%
MAXIMUM LOT COVERAGE OF ALL BUILDINGS: (E)	
MAXIMUM PERMITTED HEIGHT: 20'-0"	
MINIMUM LOT SIZE: 12,500 S.F.	
MINIMUM WIDTH AT BUILDING LINE:	



REQUIRED COLORS ARE
WHITE CHARACTERS AND
BORDER ON A BLUE FIELD.





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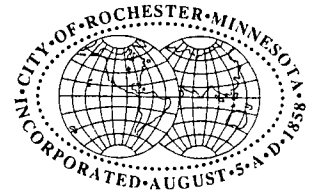
ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

COUNTY OF

Olmsted

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TO: City Planning & Zoning Commission

FROM: Gregory Wise, Planner

DATE: December 1, 2003

RE: Restricted Development Preliminary Plan #03-57 by Clint and Shelly Tagtow. The applicant is requesting approval to convert the garage on the property into 2 living units for rental.

Planning Department Review

Applicant: Clint and Shelly Tagtow
3427 Lake Street NW
Rochester, MN 55901

Property Location: The property is located along the east side of Marion Road and south of 16th Street SE and has an address is 1600 Marion Road SE.

Zoning: The property is zoned R-1 (Mixed Single Family Residential) on the City of Rochester Zoning map.

Adjacent Zoning:

South:	R-1 (Mixed Single Family Residential) across Marion Road – Longfellow School
West:	PUD (Planned Unit Development) across Marion Road - apartment buildings with R-3 type density.
North:	R-1 – Single family dwellings across 16 th Street SE.
East:	R-3 (Medium Density Residential) – Oak Terrace Manufactured Home Park

Summary of Proposal: The applicant is requesting approval to convert the garage on the property into 2 living units for rental.

Referral Agency Comments: **Rochester Public Utilities – Water Division, See attached**

Rochester Building Safety, See attached



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Rochester Fire Dept., See attached

MNDOT has indicated that the proposal should have minimal impacts on MNDOT roadways.

Olmsted County Public Works Dept. has indicated that any changes to the driveway access requires an Olmsted County access permit.

Attachments:

Copy of Application
Location Map
Site Map
Aerial Photo of Vicinity
Referral Comments

EXPLANATION OF APPLICATION AND REVIEW PROCEDURE:

The applicant is proposing to convert an existing 26 feet x 36 feet (approximate), 940 square feet garage into two additional dwelling units and a laundry room for tenants. The property is the site of a former motel that has been converted into 11 apartments.

The Restricted Development allows certain mixtures of land uses which are not allowed within a given zoning district on a permitted or conditional basis can, if regulated, serve both the public interest and allow a more equitable balancing of private interests than that achieved by strict adherence to standard zoning regulations. The regulations of this article recognize and provide encouragement for innovation and experimentation in the development of land that would otherwise not be possible under the zoning district regulations established by this ordinance.

CRITERIA & ANALYSIS:

Sections 62.706 and 62.708 (1) of the Zoning Ordinance set forth the standards upon which a Restricted Development Preliminary Plan is to be evaluated. The Council shall approve a preliminary plan if it finds that the development has addressed and satisfied all of the applicable criteria, or that a practical solution consistent with the public interest can be incorporated into the final plan. Please see the attached excerpt from the Rochester Zoning Ordinance and Land Development Manual for the applicable criteria.

The staff suggests the following findings for each of the 11 criteria on which the Preliminary Development Plan is to be evaluated:

- a) **Capacity of Public Facilities:** *City sewer and water, and other utilities currently serve the site. A separate water service must be provided to the building if approved.*

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- b) **Geologic Hazards:** *There are no known geologic hazards on the property.*
 - c) **Natural Features:** *There are no unique natural features on the property that have been identified.*
 - d) **Residential Traffic Report:** *Access to the garage will be provided via the driveway serving the apartment building on the property which has access to Marion Road SE. The additional traffic will be minimal, approximately 12 trips/day.*
 - e) **Traffic Generation Impact:** *The anticipated traffic will not cause the capacity of the adjacent streets to be exceeded. Marion Road is considered to be an "Expressway" on the current Thoroughfare plan.*
 - f) **Height Impacts:** *This development should not impact the adjacent properties.*
 - g) **Setbacks:** *The garage is setback four feet from the east lot line, which is shared with the Oak Terrace Manufactured Home Park and is approximately 47 feet from the right of way of Marion Road SE. The building appears similar to a standard residential garage. Accessory buildings are allowed to encroach into the minimum required rear yard (along the east lot line), whereas, principal buildings must be located in the "buildable area" of the lot.*
 - h) **Internal Site Design:** *Access to the building is provided via the driveway and parking area serving the existing apartment building. The property has approximately 24% landscape area, mainly in the northwest corner and the southeast corner of the property.*
 - i) **Screening and Buffering:** *There is little room for screening on the east side of the building to be converted, since the building is only four (4) feet from the east lot line.*
 - j) **Ordinance Requirements:** *The proposed development includes adequate amounts of off-street parking and loading areas*
 - k) **General Compatibility:** *The proposed use of the site does not significantly change the appearance of the property. The character of the surrounding neighborhood should not be affected significantly by this proposed use. However, the 0.49-acre parcel currently has a dwelling density of 22.4 dwelling units per acre. This density would be comparable to that allowed for a two-story apartment building located in the R-3 Zoning District (maximum 24.23). The addition of two more dwellings units would cause the dwelling density to be 26.5 dwelling units per acre. Furthermore, the provided landscape area (23.8%) is less than that required for a two-story building in the R-3 District (40% required).*

Furthermore, an accessory structure for the use of residents of the apartments and for the maintenance of the property seems to be a reasonable use for the existing building.

STAFF RECOMMENDATION:

Staff has reviewed this request in accordance with the applicable standards and provisions, as included in this report. Based upon staff review and the analysis included above, staff recommends denial of this application.

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Excerpt from the Rochester Zoning Ordinance & Land Development Manual

62.706 **Standards for Approval, Preliminary Development Plan:** The Council shall approve a preliminary development plan if it finds that the development has addressed and satisfied all the criteria listed in Paragraph 62.708(1), or that a practical solution consistent with the public interest can be incorporated into the final development plan, or a modification for unmet criteria has been granted as provided for in Paragraph 62.712.

62.708 **Criteria for Type III Developments:** In determining whether to approve, deny, or approve with conditions an application, the Commission and Council shall be guided by the following criteria:

1) Preliminary Development Plan Criteria:

- a) **Capacity of Public Facilities:** The existing or future planned utilities in the area are adequate to serve the proposed development.
- b) **Geologic Hazards:** The existence of areas of natural or geologic hazard, such as unstable slopes, sinkholes, floodplain, etc., have been identified and the development of these areas has been taken into account or will be addressed in the Phase II plans.
- c) **Natural Features:** For developments involving new construction, the arrangement of buildings, paved areas and open space has, to the extent practical, utilized the existing topography and existing desirable vegetation of the site.
- d) **Residential Traffic Impact:** When located in a residential area, the proposed development:
 - 1) Will not cause traffic volumes to exceed planned capacities on local residential streets;
 - 2) Will not generate frequent truck traffic on local residential streets;
 - 3) Will not create additional traffic during evening and nighttime hours on local residential streets;
- e) **Traffic Generation Impact:** Anticipated traffic generated by the development will not cause the capacity of adjacent streets to be exceeded, and conceptual improvements to reduce the impact of access points on the traffic flow of adjacent streets have been identified where needed.
- f) **Height Impacts:** For developments involving new construction, the heights and placement of proposed structures are compatible with the surrounding development. Factors to consider include:

- 1) Will the structure block sunlight from reaching adjacent properties during a majority of the day for over four (4) months out of the year;
 - 2) Will siting of the structure substantially block vistas from the primary exposures of adjacent residential dwellings created due to differences in elevation.
- g) **Setbacks:** For developments involving new construction, proposed setbacks are related to building height and bulk in a manner consistent with that required for permitted uses in the underlying zoning district.
- h) **Internal Site Design:** For developments involving new construction, the preliminary site layout indicates adequate building separation and desirable orientation of the buildings to open spaces, street frontages or other focal points.
- i) **Screening and Buffering:** The conceptual screening and bufferyards proposed are adequate to protect the privacy of residents in the development or surrounding residential areas from the impact of interior traffic circulation and parking areas, utility areas such as refuse storage, noise or glare exceeding permissible standards, potential safety hazards, unwanted pedestrian/bicycle access, or to subdue differences in architecture and bulk between adjacent land uses.
- j) **Ordinance Requirements:** The proposed development includes adequate amounts of off-street parking and loading areas and, in the case of new construction, there is adequate landscaped area to meet ordinance requirements.
- k) **General Compatibility:** The relationship of the actual appearance, general density and overall site design of the proposed development should be compared to the established pattern of zoning, the character of the surrounding neighborhood and the existing land forms of the area to determine the general compatibility of the development with its surroundings.

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**Rochester Building
Safety Department**

Memo

To: Jennifer Garness, Planning Department

From: Kenneth Heppelmann

CC: Clint & Shelly Tagtow
Kim Portz Architect, Inc.

Date: November 13, 2003

Re: Restricted Development Plan #03-57

The above referenced restricted development plan appears to indicate a change of use of an existing building. A change of use of an existing building will require building permits and the building will be required to meet the building code requirements for the occupancy that is assigned to it. Depending on whether the occupants of the building are transient in nature or primarily permanent in nature the occupancy classification could be R-1 regulated by the 2000 International Building Code, or R-3 regulated by the 2000 International Residential Code. Complete plans and specifications are required to be submitted for the building permits prior to construction.

Some of the building code issues that may be encountered are:

- Frost depth foundations – If the existing structure was built with a floating concrete slab, frost depth (42 inches) foundations must be provided.
- Location on property – Depending on the type of occupancy, as noted in the first paragraph, walls with a fire separation distance of less than 5 feet may be required to have a one-hour fire resistance rating.
- Accessibility – Depending on the type of occupancy, as noted in the first paragraph, accessibility might have to be provided to and within the units.
- Energy Code – The unheated concrete slab must be insulated around the perimeter from the top of the floor slab down to frost depth or to the top of the footing, whichever is less.
- Energy Code – Energy calculations must be submitted showing that the exterior envelope of the building meets the requirements of the energy code.
- Structural – A structural evaluation must be provided by a design professional, showing that the structure is capable of supporting the snow and wind loads as required.

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This is a summary of some of the code issues that may be encountered. There are other code requirements that will have to be complied with and will be required to be shown on the plans. A more complete list of requirements will be provided after a permit is applied for, plans are submitted and a plan review is completed.

Please let me know if you have any questions or concerns.

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The hand to reach for...
DAVID A. KAPLER
Fire Chief

DATE: November 13, 2003

TO: Jennifer Garness, Planning

FROM: R. Vance Swisher, Fire Protection Specialist

SUBJ: Restricted Development Preliminary Plan #03-57 by Clint and Shelly Tagtow. The applicant is requesting approval to convert the garage on the property into 2 living units for rental. The property is located along the east side of Marion Road and south of 16th Street and has an address is 1600 Marion Rd SE.

With regard to the above noted project plan, the fire department has the following requirements:

1. All buildings are required to display the proper street address number on the building front, which is plainly visible and legible from the street fronting the property. Number size must be a minimum 4" high on contrasting background when located on the building and 3" high if located on a rural mail box at the public road fronting the property. Reflective numbers are recommended.
 2. The building and all required remodeling shall meet the minimum requirements of the Rochester Building and Fire Codes for a R1 occupancy.
- c: Donn Richardson, RPU, Water Division
Mark Baker, Rochester Public Works
Clint & Shelly Tagtow
Kim Portz Architect, Inc

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12/03/03

Regarding:

Restricted Development Preliminary Plan #03-57, by Clint and Shelly Tagtow.

As a resident of 15th street, I am opposed to this proposed plan. The area is zoned R-1.

I have lived on this street for 27 years and feel to alter the zoning of the area from single family status would be detrimental to the area.

I do not oppose rental property. My street has had multiple houses as rentals in the years I have lived here. I am familiar with renters and the differences between short term and long term neighbors.

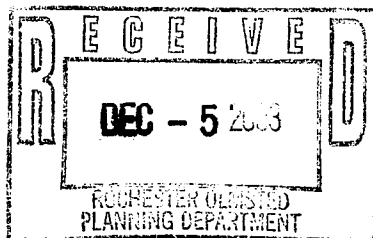
I am opposed to the prospect that the lots in the area will become over crowded with multiple dwellings, such as this plan is proposing.

I am sorry I have to speak up against the plans of a neighbor. I am sure they feel this is a good idea. But I do not feel that way.

Sincerely,



Richard T. Westlund
2056 15th St. SE
Rochester, MN.
289-2538



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12/06/03

Regarding: Restricted Development Preliminary Plan #03-57 by Clint & Shelly Tagtow

As a resident of 15th Street I am opposed to this proposal plan because the area is zoned R-1.

I have been a resident on 15th Street for around 30 years and the area is zoned R-1 and to change that would be detrimental to the area.

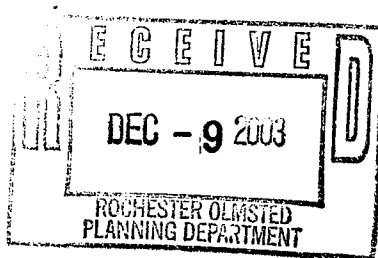
Our street has multiple houses as rental units. Since I have lived here I see the difference between renting a house and owning one.

I am upset that the Tagtows think they can take a garage and make a rental unit out of it. I am greatly opposed to the plan.

Sincerely,



David Rich
2107 15th Street SE
Rochester, MN 55904



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- A. A Bufferyard Indicator of VII shall be used when screening the proposed use from the adjacent properties.
- B. Allow wall signage to have internal lighting.
- C. Only allow wall signage on the north wall of the building.
- 2. No exterior storage of materials and equipment.
- 3. ~~Any future change of use or expansion of the proposed use will require review through the Type II process.~~
- 4. Project must comply with referral requirements of Rochester Public Works, dated November 26, 2003, and Rochester Fire Department, dated November 26, 2003.
- 5. The location of the future garage, as identified on the site plan, must be located outside all utility easements and required bufferyards.
- 6. The grading and drainage plans and erosion and sedimentation control plans must be approved by the City prior to commencement of grading activities on this property.
- 7. The applicant must provide surety that guarantees that the site will be fully restored, after completion of the excavation activity, to a safe condition, and one that permits reuse of the site in a manner compatible with the Comprehensive plan, neighborhood plans, and Land use Plan and applicable City policies. Said surety must be provided prior to commencement of grading activities on this property.

*

Restricted Development Preliminary Plan #03-57 by Clint and Shelly Tagtow. The applicant is requesting approval to convert the garage on the property into 2 living units for rental. The property is located along the east side of Marion Road and south of 16th Street SE and has an address is 1600 Marion Road SE.

Mr. Brent Svenby presented the staff report, dated December 1, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Mr. Svenby explained that, when the staff report was written, staff had the impression that the motel was used as a multi-family apartment building. However, the applicant contacted them and indicated that it is still used as a motel. Despite this detail, staff is still not recommending approval of the application.

Ms. Wiesner asked if rezoning the property would allow them to do this.

Mr. Svenby stated that the rezoning criteria would need to be reviewed.

Ms. Baker explained that staff compared the site to a property if it were zoned R-3. It did not comply with the development standards. Therefore, to intensify the use would be contrary to the Ordinance.

Ms. Wiesner asked if it would work in the B-5 zoning district.

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Ms. Baker responded that it did not allow the use.

Ms. Petersson asked if the applicant could apply for a variance.

Ms. Baker responded that the Commission would have to act on the application before them.

Mr. Burke asked if removing the structure to build it to code would have a bearing on the application.

Mr. Svenby responded no, as they would still be increasing the intensity and use of the site. It would also be non-conforming. Transient accommodations are not permitted in the R-1 zoning district. A section of the Ordinance prohibits non-conforming uses to increase the number of residential uses if the property is non-conforming.

Ms. Petersson asked if a variance would be possible.

Mr. Svenby responded that a variance cannot be made for a use.

Ms. Petersson asked if a conditional use permit would allow them this type of use.

Mr. Svenby responded that they are requesting a conditional use permit at this time (restricted development).

Mr. Avery Tagtow, of 3427 Lake Street NW, Rochester MN, addressed the Commission. He stated that his family purchased this site (Homestead Motel) in February. He stated that there was a restaurant located there before they purchased it. He indicated that he thought a restaurant would increase the intensity of the building more than what he is trying to accomplish. He explained that they upgraded the property and feel that there is a need for the extra accommodations, especially the laundry room and two sleeping areas.

Mr. Collin Tinsley, of 812 14th Avenue NE, Rochester MN, addressed the Commission. If the City Council would take rezoning to the R-3 zoning district by their own motion, they would be agreeable with two caveats. They would not be increasing the footprint. The existing building encroaches into what would be the required setbacks for the R-3 zoning district. They would like to have the existing buildings remain. They would also ask that the required 40 percent landscape area be reduced to a Type I Design Modification standard.

With no one else wishing to be heard, Ms. Wiesner closed the public hearing.

Ms. Rivas asked if an accessory building could be converted into a service area without having a zone change.

Ms. Baker responded that the non-conforming use section of the Ordinance does address modifications to non-conforming uses. It specifically prohibits the intensification of the use with regard to adding dwelling units or space dedicated to the public.

Ms. Petersson stated that the space would only be used for the tenants and staff.

Mr. Wheeler stated that the County Ordinance allowed the restaurant use on that property previously.

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Mr. Dockter moved to recommend denial of Restricted Development Preliminary Plan #03-57 by Clint and Shelly Tagtow with the staff-recommended findings. Mr. Quinn seconded the motion.

Ms. Petersson stated that she would like to find a way to allow the use.

Ms. Wiesner agreed, but they couldn't based on the Zoning Ordinance.

Mr. Staver stated that Criteria K, listed in the staff report, pertains to general compatibility. It seems compatible to what is occurring on the property, but it is not allowed in the zoning district.

The motion to deny carried 6-3, with Ms. Petersson, Mr. Ohly, and Mr. Staver voting nay.

Mr. Wheeler stated that the Commission could initiate a zone change for the property.

Ms. Baker stated that there is an R-3 zoning district adjacent to the property. There would be more staff support for the R-3 zoning district. If there is a means for them to do a design modification, staff can look at that. Another alternative is that they can go through an Incentive Development Conditional Use Permit. It seems as though they have been upgrading the property. Perhaps they would need to intensify their landscaping.

Mr. Wheeler suggested that the Commission wait to see how the City Council acts on the current request.

Zoning District Amendment #03-23 AND General Development Plan #220 by Kelly and Kristi Madson. The applicants are proposing to re-zone property at 4006 Highway 14 East from H (Holding) to B-4 (General Commercial) to facilitate expansion of commercial land uses currently occupied by Bob's Construction and rental storage buildings. The property includes approximately 7.94 acres of land and is located east of 40th Ave. SE and south of TH 14 East.

Ms. Mitzi A. Baker presented the staff report, dated December 5, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Mr. Josh Johnson, of McGhie & Betts, Inc. (1648 Third Avenue SE, Rochester MN), addressed the Commission. He stated that the applicant agrees with the staff-recommended conditions. He stated that they would work with MnDOT when it comes to the access onto 40th Avenue.

With no one else wishing to be heard, Ms. Wiesner closed the public hearing.

Mr. Burke moved to recommend approval of Zoning District Amendment #03-23 by Kelly and Kristi Madson with the staff-recommended findings. Mr. Ohly seconded the motion. The motion carried 9-0.

Mr. Burke moved to recommend approval of General Development Plan #220 by Kelly and Kristi Madson with the staff-recommended findings and conditions. Mr. Ohly seconded the motion. The motion carried 9-0.

CONDITIONS:

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